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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|-------------------------------------|
| 09/856,393 | 05/22/2001 | Akitoshi Kojima | P-0105 S | 8012 |
| 7590 | 01/29/2004 | | | |
| Lackenbach Siegel Marzullo Aronson & Greenspan One Chase Road Scardale, NY 10583 | | | | EXAMINER EDOUARD, PATRICK NESTOR |
| | | | | ART UNIT 2654 PAPER NUMBER |

DATE MAILED: 01/29/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|---|---------------------------------------|-------------------------------|
| Office Action Summary | Application No. 09/856,393 | Applicant(s) KOJIMA |
| | Examiner Patrick N. Edouard | Art Unit 2654 |
| <i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i> | | |
| Period for Reply | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. | | |
| <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | |
| Status | | |
| 1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Nov 10, 2003</u> | | |
| 2a) <input checked="" type="checkbox"/> This action is FINAL. 2b) <input type="checkbox"/> This action is non-final. | | |
| 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213. | | |
| Disposition of Claims | | |
| 4) <input checked="" type="checkbox"/> Claim(s) <u>1, 3-7, and 9-12</u> is/are pending in the application. | | |
| 4a) Of the above, claim(s) _____ is/are withdrawn from consideration. | | |
| 5) <input type="checkbox"/> Claim(s) _____ is/are allowed. | | |
| 6) <input checked="" type="checkbox"/> Claim(s) <u>1, 3-7, and 9-12</u> is/are rejected. | | |
| 7) <input type="checkbox"/> Claim(s) _____ is/are objected to. | | |
| 8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement. | | |
| Application Papers | | |
| 9) <input type="checkbox"/> The specification is objected to by the Examiner. | | |
| 10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). | | |
| 11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. | | |
| 12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner. | | |
| Priority under 35 U.S.C. §§ 119 and 120 | | |
| 13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). | | |
| *See the attached detailed Office action for a list of the certified copies not received. | | |
| 14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received. | | |
| 15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. | | |
| Attachment(s) | | |
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | | |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | | |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | | |
| 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ | | |
| 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) | | |
| 6) <input type="checkbox"/> Other: _____ | | |

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DETAILED ACTION

1. This Office action is in response to communication filed 11/10/03 (paper #8). Claims 1, 3-7 and 9-12 are pending. Claims 2 and 8 are canceled.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 2-7 and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shapiro et al (5,487,671) in view of Adams, Jr. et al (6,017,219) thereafter "Adams".

As per claims 1 and 7, Shapiro et al teach a pronunciation judgment system comprising (figure 2):

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a database for storing reference pronunciation data (his reference audio specimen library 120, col. 5, lines 33-40);

reference voice playback means for outputting a reference voice based on said reference pronunciation data (his reference audio specimen 100, col. 5, line 34-35);

similarity determination means for comparing a user pronunciation data input in correspondence to said reference voice and said reference pronunciation data (his student response specimen scoring unit 160, col. 5, lines 52-56); and

means for informing a user of a result of determination made by said similarity determination means (col. 5, lines 22-28, the student response score is displayed to the student).

It is noted that Shpiro et al teach the claimed invention but does not explicitly teach a plurality of reference pronunciation data corresponding to a pronunciation fluency level, for the same language and a user operative member for selecting one of said plurality of pronunciation fluency levels. However, these features are well known in the art as evidenced by Adams who teaches in col. 6, lines 33 to 65, a system and method for interactive reading and language instruction comprising a reading level information database 9 comprising a plurality of reading level ranging from a beginner level to the most advanced level wherein the student level controller 15 can retrieve input from the reading level database. Therefore, one having ordinary skill in the art at the time the invention was made would have found it obvious to incorporate into the pronunciation database of Shpiro the reading (i.e. pronunciation) range level as taught by Adams because it would allow the user the capability of selecting the level he/she wanted and the pace

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at which the lesson progresses that would facilitate the learning process (abstract and col. 2, lines 33 to col. 3, line 3).

As per claims 3 and 9, the combination of Shpiro with Adams teaches wherein said reference voice playback means outputs the reference voice based on said reference pronunciation data corresponding to the selected pronunciation fluency level until said similarity determination means detects agreement of both data (Shpiro at col. 6, line 38-56; Adams at col. His audio output 14, col. 6, line 56-61)

As per claims 4 and 10, the combination of Shpiro with Adams et al teach wherein said database stores reference pronunciation data of a plurality of pronunciation fluency levels for each of a number of sentences, and said reference voice playback means includes a user operative member for selecting a sentence and a pronunciation fluency level and outputs the reference voice based on said reference pronunciation data corresponding to the selected pronunciation fluency level until said similarity determination means detects agreement of both data.(Shpiro at Col. 5, line 57 to col. 6, line 56; Adams at col. 6, lines 56-61, col. 7, lines 9-19).

As per claims 5 and 11, Shpiro et al teach further comprising means for displaying a sentence corresponding to the reference pronunciation data (col. 7, line 61 to col. 8, line 26).

As per claims 6 and 12, Shpiro et al teach wherein said informing means informs of the agreement of both data (col. 8, line 58 to col. 9, line 15).

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231 or faxed to:

(703) 308-9051, (for formal communications intended for entry) Or:

(703) 305-9508 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 11, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick N. Edouard whose telephone number is (703) 308-6725. The examiner can normally be reached on Tuesday-Friday from 07:30 a.m.-6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil , can be reached on (703) 305-9645. The facsimile phone number for this Art Unit is (703) 305-9508. Alternatively, facsimile messages may be sent directly to (703) 305-9644 where they will be stored in the examiner's voice mailbox (telling the examiner that a fax was received) and be automatically printed (i.e. - no delay by the examiner).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Patrick N. Edouard

January 23, 2003



PATRICK N. EDOUARD
PRIMARY EXAMINER